

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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ADAMS OUTDOOR ADVERTISING,

Plaintiff-Appellee,

v

CITY OF EAST LANSING and EAST LANSING  
BUILDING BOARD OF APPEALS,

Defendants-Appellants.

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UNPUBLISHED

April 1, 2003

No. 236769

Ingham Circuit Court

LC No. 84-052640-CZ

Before: O'Connell, P.J., and Fitzgerald and Murray, JJ.

MEMORANDUM.

Defendants appeal by leave granted the circuit court order enjoining them from causing the removal of a rooftop sign from a building located at 203 Evergreen in East Lansing. We reverse. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

In 1975, defendant City of East Lansing adopted a sign code, which prohibits any roof sign. East Lansing Ordinances, art VI, § 8.38(12). The code contains provisions governing existing nonconforming uses. Section 8.39(7) limited nonconforming use exceptions to the person who owned the premises on the date the code was adopted. Section 8.39(8) ended all nonconforming use exceptions on May 1, 1987.

This litigation began in 1984, when defendants sought to eliminate the rooftop sign based on a change in ownership. The circuit court found that § 8.39(7) was an unlawful amortization provision and enjoined defendants from enforcing it. No appeal was taken from the circuit court's order.

The validity of the sign code was extensively litigated in regard to other properties. After multiple appeals, the Supreme Court concluded that the provisions barring rooftop signs and requiring the removal of nonconforming uses by May 1, 1987, did not result in unconstitutional takings. *Adams Outdoor Advertising v East Lansing*, 463 Mich 17; 614 NW2d 634 (2000).

In 2001 defendants again attempted to enforce the sign ordinance and obtain the removal of the sign at 203 Evergreen. The circuit court granted plaintiff's motion for a declaratory judgment, enjoining defendants from causing the removal of the sign, based on the special status of the sign attained under the unappealed previous order of the circuit court.

The circuit court erred in finding that the matter was controlled by its previous order. The original complaint only alleged that § 8.38(7) was unconstitutional, and in granting relief the circuit court only barred defendants from enforcing that provision of the ordinance. The court erred in relying on *Sumner v General Motors Corp*, 245 Mich App 653; 638 NW2d 1 (2001), where it was unnecessary for defendants to obtain relief from the previous judgment before they sought to enforce a different provision in the sign ordinance.

Reversed.

/s/ Peter D. O'Connell  
/s/ E. Thomas Fitzgerald  
/s/ Christopher M. Murray